

Applicant : Daylan B. Darby Attorney's Docket No.: 10559-327001/P9688
Serial No. : 09/768,746
Filed : January 23, 2001

REMARKS

In reply to the action mailed April 15, 2004, please amend the application as indicated. Claims 1-29 are pending, with claims 1, 11, 21, and 25 being independent. Claims 1, 5, 7, 8, 11, 15, 17, 18, and 21 have been amended, and claims 30-33 have been added. No new matter has been added. Support for the amendments to the claims can be found, at least, in FIG. 2 and in the specification from page 6, line 11 through page 8, line 5. Applicant asks that all claims be allowed in view of the amendments and remarks contained on the following pages.

Objection to the Specification

The abstract of the disclosure is objected to because the abstract allegedly does not describe the subject matter of the dependent claims. This objection is traversed.

No authority specifically calls for the subject matter of the dependent claims to be recited in the abstract, and the MPEP disclaims a requirement of a strong correlation between the claims and the abstract; thus, this objection should be withdrawn. The objection cites MPEP § 608.01(b), which is based on 37 CFR 1.72(b). Neither the MPEP nor the CFR describe requirements to the abstract that relate to dependent claims (note, the word "dependent" never appears in MPEP § 608.01(b) or 37 CFR 1.72(b)). Rather, the abstract should provide a more general "gist" of the technical disclosure. See 37 CFR 1.72.

Also, the abstract should describe the disclosure and need not have a strong correlation to the claims. In general, the MPEP disclaims a requirement of a strong correlation between the claims and the abstract. The MPEP states, "[t]he abstract is not intended nor designated for use in interpreting the scope or

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meaning of the claims" (see MPEP § 608.01(b)). Therefore, because no authority specifically calls for the subject matter of the dependent claims to be recited in the abstract, and because the MPEP generally disclaims a requirement of a strong correlation, the objection is unfounded and should be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 1-29 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Raymond et al. ("fetchmail (1)", <http://web.archive.org/web/20000903061823/> <http://tuxedo.org/~esr/fetchmail/fetchmail-man.html>; hereinafter "Raymond") in view of Fijolek et al. (U.S. Pat. No. 6,351,773; hereinafter "Fijolek").

Raymond discloses an electronic mail retrieval and forwarding utility. Mail is retrieved from a mailserver based on several options.

Fijolek discloses methods for providing restricted access for a cable modem to a data-over-cable system. A connection may be restricted by using a connection timer in connection with the data-over-cable system. The system provides restricted access to the data-over-cable system over a timed interval, using the timer. See Abstract.

Claims 1, 11, 21, and 25 are directed to time-based network connections. After a connection is established between a first device and a second device, a determination is made as to whether there is data available for transmission. If there is data available, a determination is made as to whether a time-related event has occurred since establishing the connection. If a time-related event has occurred, the connection is terminated. However, the connection is terminated only under certain conditions. Consider exemplary claim 1:

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"based on the occurrence of the time-related event, terminating the connection between the first device and the second device at a time after at least one of said one or more data transactions (emphasis added)."

In other words, the timer is a conditional timer.

Connections are not terminated based only on the timer being expired. Connections are strategically terminated based on events, such as the occurrence of a data transaction. This reduces the risk and overhead related to an unexpected connection loss because the connection is properly terminated by ensuring that the data transaction is not occurring and because once a connection is properly terminated, procedures normally performed upon termination of a connection, such as committing the transaction, can occur (see page 2 line 17 through page 3, line 10; FIG. 2).

Prima Facie Case of Obviousness not Met

The following criteria are required to establish a prima facie case of obviousness: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the combined prior art references must teach or suggest all the claim limitations (see MPEP 706.02(j)).

These criteria have not been met for at least the reason that neither Raymond nor Fijolek teach or suggest the claimed subject matter.

In contrast to the claimed subject matter, as amended, neither Raymond nor Fijolek, either alone or in combination, teach or suggest terminating a connection such that the data

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transaction has occurred. In other words, neither teach or suggest, alone or in combination, the use of a conditional timer to terminate a connection; i.e., a timer that is only used based on a condition. Further, they do not teach or suggest the claimed conditions. Each of the independent claims includes language directed to determining if a time-related event has occurred, if data is available for transmission; and, terminating a connection after at least one of said one or more data transactions. Thus, independent claims 1, 11, 21, and 25, should be allowed because neither Raymond nor Fijolek, either alone or in combination teach or suggest the claimed subject matter.

Claims 2-4, 7-10, 12-14, 17-20, 22-24, and 26-29 depend, directly or indirectly, from one of allowable claims 1, 11, 21, and 25. Accordingly, applicant submits these claims are allowable for the reasons given above.

Conclusion

In view of the above amendments and remarks, therefore, all of the claims should be in condition for allowance. A formal notice to that effect is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any

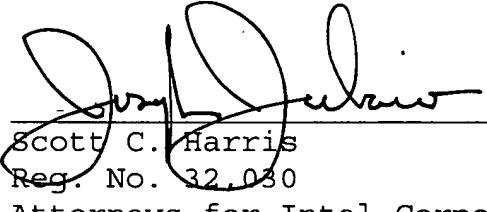
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claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 7/15/04



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